IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

WP(C).No. 19020 of 2007(L)

PETITIONER:

MATHAI RAJAN, S/O M.MATHAI,
AGED 53 YEARS, VALLITHUNDIL PEEDIKAYIL,
KADAMPANADU SOUTH P.O., ADOOR.

BY ADV. SRI.BECHU KURIAN THOMAS
SRI.ROSHEN.D.ALEXANDER

RESPONDENTS:
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1. THE DISTRICT COLLECTOR,
COLLECTORATE, PATHANAMTHITTA.

2. REVENUE DIVISIONAL OFFICER,
ADOOR.

3. THE ADDITIONAL TAHSILDAR,
ADOOR TALUK OFFICE, ADOOR.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 19020 OF 2007
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Dated this the 20th day of September, 2007

J U D G M E N T

The prayer made in this writ petition is to quash Exhibits P4, P6 and P8 and to direct the respondents to give a proper hearing to the petitioner before final orders are passed against him.

2. The controversy raised in this writ petition is in relation to 43 sq. metres of land, in respect of which proceedings were initiated against the petitioner under the Land Conservancy Act, by issuing Ext.P2 notice. On receipt of Ext.P2, petitioner submitted Ext.P3 application dated 11.8.2006, seeking adjournment. However, the matter was proceeded with based on a local inspection that was conducted and as per Ex.P4, order was passed directing his eviction. It was also ordered that if he does not vacate from the premises, steps will be taken for his forceful eviction.

3. Ext.P5 is an appeal filed by the petitioner against Ext. P4 before the 2nd respondent. The parties were heard and even before the Appellate Authority, petitioner argued his contentions, however without producing any supporting documents or other proof of his claim of ownership over the property that was the subject matter of the proceedings. The appeal resulted in Ext.P6 order rejecting the same. Again petitioner filed Ext.P7 revision before the 1st respondent, which also met with dismissal as per Ext.P8 order. In Ext.P8 order, the 1st respondent has held that even at that stage the petitioner did not produce any documents in support of the assertion of ownership over the property in question.

4. At the time when this writ petition was taken up for admission, the learned counsel for the writ petitioner complained that the petitioner was denied a reasonable opportunity of adducing evidence or proving his contentions.

I do not find any substance in this although there may be some justification in his complaint in so far as Ext.P4 order is concerned. He had sufficient opportunities when the Appellate and Revisional Authorities dealt with Exhibits P4 appeal and P7 revision. The learned Government Pleader submits that Ext.P5 appeal was initially posted to 15/12/06 and was adjourned to 31/1/07 and it is only thereafter that after considering the entire material, the orders were passed on 2/2/07. Petitioner cannot complain of lack of opportunity at this stage. Similar is the case with the Revisional Authority which considered Ext.P7 revision and rejected it by Ext.P8. Ext.P8 makes specific reference to the opportunity of hearing that was granted.

5. If the petitioner had some document or other evidence to sustain his claim, if not at the original stage, he should have produced it atleast at the Appellate or Revisional stages. This having not done, the orders cannot

be faulted. Nothing has been brought out to successfully challenge findings of fact entered into by the authorities.

6. During the course of the arguments, learned counsel for the writ petitioner raised a plea of malafides against the respondents. If plea of malafides are raised, it is imperative for the petitioner to make specific allegations and implead the officer concerned in his personal capacity. This has not been done in this case. In such a situation, I am not justified in taking congnizance of these vague assertions.

In the result, I do not find any merit in the writ petition and it will stand dismissed.

ANTONY DOMINIC, JUDGE.

Rp